

REMARKS

Claims 1-37 are in the application.

Claims 1-37 are rejected under 35 USC 103(a) as being obvious over Friedland et al. in view of Alaia et al.

In view of the “final” status of the application, applicants herein limit their arguments to matters other than those of the Examiner’s discretion.

Claim 6 was previously amended to recite the step of: “receiving bid identifications for remaining units within the lot at the contemporaneous offering price from the plurality of remote locations by communicating between a set of users and a plurality remote servers at respective remote locations to interactively define the bid identifications, and communicating the defined bid identifications between the remote location and the central server substantially without interactive communications directly between the user and the central server....” This step requires that there be an interactive communication between the remote locations and set of users. According to Friedland et al., the “collector/redistributor nodes are heirarchically interconnected and serve to efficiently collect and filter bids from a large number of remote bidders and pass potentially winning bids onto the auction server, and also serve to efficiently broadcast status messages concerning the live auction received from the auction server to a large number of remote client programs running on remote computers.” There is no teaching or suggestion that the communication between user and collector/redistributor nodes is interactive. Since this is a method claim, and the language affirmatively stated, this amounts to more than a mere statement of intended use. The Examiner’s analysis does not in any way address this aspect of the claim, and it was not given due consideration during examination.

Claim 7 requires that “the remote server communicates with a user by means of a hypertext language protocol.” Friedland et al. do not disclose the use of thus protocol, and indeed Friedland et al. discloses that the “DLA auction console consists of a Java 1.02 applet running in a web browser, either Internet Explorer or Netscape Navigator/Communicator.” That the browser itself, whose native language is HTML, is insufficient, and requires an applet, tends to indicate that the protocol is NOT a hypertext

language protocol. Note that Friedland et al. does not disclose the protocol employed, nor teach or suggest that a hypertext markup language be employed.

Claim 8 was amended to recite the steps of: “automatically maintaining synchronization of a clock at each remote location and receiving at the central server bid identifications for remaining units within the lot at the contemporaneous offering price associated with a time of bid identification from the plurality of remote locations;” and “decrementing the offering price over time and decrementing the quantity of remaining units, prioritizing award of units based on the time of bid identification, if received within a bid time window...” Nothing in Friedland et al. teaches or suggests that the remote location has a clock, let alone one which is synchronized. Friedland et al. suggests that it is possible to conduct a realtime auction, and does not discuss time lags and the like. Thus, in contrast to the present invention, Friedland et al. maintains a single central timebase, in contrast to the invention set forth in claim 8, which has a distributed synchronized timebase. This feature is not taught or suggested by the references. The Examiner’s analysis in the office action is incomplete, ending in a sentence fragment, and is insufficient as presented to support the rejection.

Claim 14 provides that: “over a period of time, generally relaxing a limiting restriction on acceptable transaction parameters for the subject, and prioritizing an award of a quantity of subject to a respective buyer based on a sequence of generation of bids, if received within a bid time window, wherein the sequence is determined based on an automatically synchronized timebase, which maximizes a seller utility...” Friedland et al. describe Dutch Auctions as follows: “Dutch auctions, by contrast, start with a high price that is decreased incrementally by the auctioneer until the auctioneer obtains a first, winning bid.” There is no teaching or suggestion here, or anywhere else in Friedland et al., that there is an “automatically synchronized timebase”. The word “if” is part of a logical statement of the method, that is, there is a conditional execution within the method. It is respectfully submitted that a statement of conditional execution does not in any way render a claim indefinite, and further defines a positive limitation on the claim scope. Therefore, the claim language distinguishes the reference.

Because at least these claims have not been properly examined, applicants respectfully submit that the finality of the rejection must be withdrawn.

It is therefore respectfully submitted that the present claims are patentable, and a Notice of Allowance is respectfully solicited.

Respectfully submitted,

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